



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2300373

Applicant Name: James Reed

Address of Proposal: 1816 N. 38th Street

SUMMARY OF PROPOSED ACTION

Master use permit to raise an existing single family residence and construct a deck and stair addition.

The following approval is required:

- **Variance** - To allow a portion of the principal structure to project into the required rear yard (required 12 feet, proposed 3' 9", for the deck and stairs and 10' 9" for the house). Seattle Municipal Code Section 23.44.014B).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction.

BACKGROUND DATA

Subject Site and Vicinity

The proposal is located in a Single Family 5000 zone. The proposed building site is an approximately 2,040 sq. ft. rectangular-shaped parcel located on North 38th Street between Wallingford Avenue North and Burke Avenue North in the Wallingford area. The parcel is

currently improved with a one story single family residence with a basement and a partially below grade garage. There are no mapped or observed critical areas on the site.

The subject site is zoned Single-Family 5000 (SF 5000) as is the immediate surrounding area. The area consists of mostly single family residences. The zoning changes to a small pocket of Lowrise 2 Residential Commercial (L-2 RC) at the northeast corner of Wallingford and North 37th Street and Lowrise 2 (L-2) at the northwest corner and then continuing on down Wallingford to the south.

Existing Non-conformities

The existing structure extends 1' 3" into the 12' required rear yard and is currently nonconforming with respect to existing Land Use Code requirements.

Proposal Description

The applicant proposes to raise the existing structure in order to create additional living area in the existing basement and construct a deck and stair addition that would project an additional 6'9" into the required rear yard. The deck and stair will replace the existing stairs that will be removed as a result of raising the house and provide an additional open space area. The existing stairs access the main floor and are currently 3' 9" high, 4' 8" wide and project 5' 4" from the structure into the required rear yard.

The height of the house will be 16' 6" to the top of the plate from grade and 25' 3" to the top of the roof. The proposed porch will be 3'9" deep by 13' wide and the stairs will be 3' wide by 11' long running parallel to the porch. The addition of the porch and stairs will encroach further into the required rear yard resulting in a setback of three feet, nine inches (3'9") instead of the 12 ft. required by the Land Use Code. An addition to the front of the house is also proposed but does not require variance approval as it will meet the current Land Use Code requirements. Variance relief will be required to raise the house and to construct the porch and stair additions as proposed.

Public Comment

The comment period ended April 30, 2003. One comment letter was received asking why there was not public notice for a construction project next to this proposal.

ANALYSIS - VARIANCE

Variances from the provisions or requirements of the Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

1. *Because of unusual conditions applicable to the subject property including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The current lot area of 2,040 sq. ft. is well under the SF5000 sq. ft. minimum lot size requirement of the zone. This lot appears to have been created in the early 1900's prior to any minimum lot size requirements and is unusually small compared with other lots in the vicinity. The current residence is 1,500 sq. ft in size, 750 sq. ft. on each floor and is located partially in the required rear yard. The strict application of the Land Use Code will deprive the applicant the rights and privileges enjoyed by other properties in this zone and vicinity as most of the other houses in the immediate vicinity are two or more stories and also have decks in their back yards.

2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

The requested variance for raising the house does not go beyond the minimum necessary to afford relief as the height will result in additional head room in the basement making it a functional living area. Most of the residences in the immediate vicinity are two stories and some of the houses on the smaller lots are located in some portion of the rear yard.

The requested variance for the porch addition also does not go beyond the minimum necessary to afford relief. Rear decks are common in this area though most appear to meet land use code requirements. Because of the small lot size, the location of the existing structure and the limited amount of open space that is available on the site, a rear deck would allow additional open space opportunities. The size of the deck is much smaller than what most people in the neighborhood enjoy therefore does not go beyond the minimum necessary to afford relief.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

The proposal would not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity. Raising and extending the structure would create a minimal increase in bulk and any view blockage would be minimal when compared to an addition that meets all development standards.

Approval of the deck addition would also not be detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity. The addition would allow for a small amount of open space area adjacent to the main living area that is common in the form of decks in this area.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and*

The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would not allow the applicants to utilize an existing basement for living area by adding height for headroom. This in turn would require the applicants to provide a second story in order to create additional living space rather than utilize space that is already there.

Preventing the structure to be raised in its current location would cause undue hardship or practical difficulties because the small lot size and location of the existing structure.

The existing location of the structure and size of the lot would not allow the applicants to provide a deck from the main floor to the back yard in a conforming location. The deck will allow for additional open space opportunities that are available to other residences in the neighborhood.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulations and procedures for the use of land. Procedures are established to increase citizen awareness of land use activities and their impacts and to coordinate necessary review processes. These provisions are designed to provide adequate light, air, access, and open space.

The granting of the variance to allow the house to be raised will allow for additional living area on this substandard lot and the construction of the deck would be within the spirit and purpose of the Land Use Code.

DECISION - VARIANCE

The proposed action is **GRANTED.**

Signature: (signature on file) Date: August 21, 2003
Lori Swallow, Land Use Planner
Department of Design, Construction and Land Use
Land Use Division

LS:bg

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